

# **EXHIBIT B**

HIGHLY CONFIDENTIAL - PURSUANT TO PROTECTIVE ORDER

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1           IN THE UNITED STATES DISTRICT COURT  
2           FOR THE NORTHERN DISTRICT OF OHIO  
3           EASTERN DIVISION  
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5           JAMES HAYDEN ,  
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7                 Plaintiff ,  
8

9           v .                                          Case No. 1:17-cv-002635-CAB  
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11           2K GAMES , INC . , AND  
12           TAKE-TWO INTERACTIVE SOFTWARE , INC . ,  
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14           Defendants .  
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16           ~~~~~  
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18           HIGHLY CONFIDENTIAL - PURSUANT TO  
19           PROTECTIVE ORDER  
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21           Remote Deposition of  
22           JAMES E. MALACKOWSKI  
23

24           August 26 , 2021  
25           10:03 a.m.

26           Witness Location:  
27           11661 Marquette Drive  
28           Buffalo , New York  
29

30           Stephen J. DeBacco , RPR

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1       this case, infringing or asserted infringing  
2       copyrights would become smaller.

3               And just to clarify, if I said  
4       numerator before, I meant denominator, and I  
5       will look to clear that up in any sort of  
6       errata.

7               Q.       So are you -- well, strike that.

8               Mr. Malackowski, isn't comparing  
9       lines of code or file size an overly simplistic  
10      and crude way to attempt to measure the value  
11      of the content that's embodied in such files?

12              A.       I don't think you can make that  
13      statement generally. I think you have to look  
14      at the content that you're evaluating. When  
15      we're looking at content, such as the accused  
16      copyrights, which represent one of perhaps well  
17      over 100 elements of realism in a game, and not  
18      one that has any particular attribution to the  
19      revenue, I think that file size here is  
20      uniquely appropriate.

21              Q.       Uniquely appropriate.

22              A.       Correct, as opposed to other cases  
23      where we're talking about software code, for  
24      example.

25              Q.       You're aware, Mr. Malackowski, that